



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2020

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.6776 of 2020 and
WMP(MD).No.6163 of 2020

Muthuramalingam

Petitioner

vs.

1.The Director General of Police,
Mylapore,
Chennai - 600 009.

2.The Additional Director General of Police,
Inspector General of Police,
Department of Prison,
Venals Road, Egmore,
Chennai -08.

3.The Superintendent of Police,
Tirunelveli.

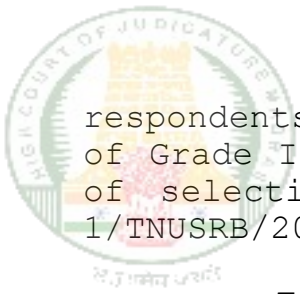
4.The Member Secretary,
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore, Chennai - 08.

5.The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai - 08.

6. The Inspector of Police,
Maanur Police Station,
Maanur,
Tirunelveli.

Respondents

PRAYER:- This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to impugned order of the third respondent by vide proceedings in Na.Ka.No.A4/16449/2019, dated 04.05.2019 and quash the same and consequently direct the



respondents to appoint the petitioner (Roll No.3010037) to the post of Grade II PC (AR & TSP), Jail Warder and Fireman 2019 in respect of selection made as per notification made in Notification No. 1/TNUSRB/2019 dated 06.03.2019.

For Petitioner : Mr. J. Anandkumar

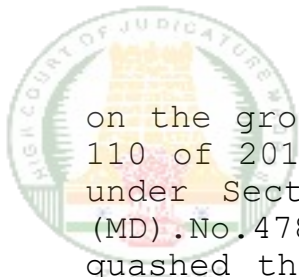
For Respondents: Mr. K. Chellapandian
Additional Advocate General
Asst. by Mr.K.Mu.Muth
Additional Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned order passed by the third respondent vide proceedings in Na.Ka.No.A4/16449/2019, dated 04.05.2020 and consequently, direct the respondents to appoint the petitioner (Roll No.3010037) in the post of Grade II PC (AR & TSP), Jail Warder and Fireman 2019 in respect of selection made as per Notification made in Notification No.1/TNUSRB/2019,dated 06.03.2019.

2. The case of the petitioner is that he has completed 12th Standard and provisionally selected for the post of Jail Warder, after successfully completion of all the tests conducted by the Tamil Nadu Uniform Service Recruitment Board for the post of Grade II PC (AR & TSP), Jail Warder and Fireman 2019. But, it was informed by the respondents that a case in Crime No.110 of 2015 is pending against him on the file of Maanur Police Station, for the offence under Section 160 IPC. Further, the said case was registered pretext that on the last day of completion of 12th Standard examination against him and his friend sprayed ink on each other. But, he did not know about the said case. While the petitioner coming to know about the same, he has filed CrI.O.P(MD).No. 4787 of 2020, before this Court to quash the said First Information Report and the same was allowed on 23.03.2020. Thereafter, the petitioner has sent a detailed representation to the first respondent, on 01.06.2020. But, the third respondent has rejected the candidature of the petitioner as per the impugned order dated 04.05.2020. Challenging the same, the petitioner has filed the present Writ Petition before this Court.

On perusal of the entire records it is seen that the petitioner herein has completed 12th Standard and he was served with the appointment order for the post of Grade II PC (AR & TSP), Jail Warder and Fireman 2019 after completion of the entire selection process. Thereafter, the respondent has cancelled the said order,



on the ground that FIR has been registered against him in Crime No. 110 of 2015, on the file of Manoor Police Station for the offence under Section 160 IPC. Immediately, the petitioner filed Crl.O.P (MD).No.4787 of 2020 before this Court and this Court has also quashed the same vide order dated 23.03.2020. That being the case, the respondents have not considered the said order of quashing the FIR, passed an impugned proceeding dated 04.05.2020, by rejecting the candidature of the petitioner.

This Court by order dated 23.03.2020 in the above said Crl.O.P(MD).No. 4787 of 2020 has taken a Judicial Notice of the fact that at least in the State of Tamil Nadu, the School Children have the habit of spraying ink on each others clothes on the first day of April and again the last day of the academic year. It is something that is done out of feeling or sheer jubilation. By no stretch of imagination can it constitute affray. The First Information Report has been registered against the petitioner stating that the second petitioner had technically attained the age of majority. But, then, the first petitioner herein was very much a minor. Section 159 IPC states that when two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray". Here the petitioner herein is a Juvenile. Spraying of ink on each other cannot constitute or amount to a fighting. In any event, it cannot be said to cause disturbance of public peace. Further, in the present case, the ingredients of affray are wholly absent. Finally, this Court had come to the conclusion that the registration of the First Information Report is an abuse of legal process and quashed the same. Further, it is also stated in the said order that the impugned First Information Report will not be put against the petitioner for any reason whatsoever. In other words, the mere registration of the First Information Report will not constitute disqualification for the petitioner to apply for any public employment.

Considering the fact that the petitioner was juvenile at the time of incident and that the First Information Report has been quashed by this Court, on 23.03.2020 in Crl.O.P(MD).No. 4787 of 2020, registered against him, this Court is of the view that the appointment of the petitioner cannot be rejected by the respondents.

While so, Mr.K. Chellapandian, learned Additional Advocate General Assisted by the Mr.K.Mu.Muthu, learned Additional Government Pleader appearing for the respondents submitted before this Court that the third respondent viz., Superintendant of Police, Tirunelveli, has recommended the case of the petitioner to the higher authorities for consideration and the positive results will be expected. The above said submission is recorded.



With the above observation, this Writ Petition is allowed. The respondents are directed to consider the case of the petitioner positively, as expeditiously as possible, in any event, not later than four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

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Sub Assistant Registrar(CS)

To

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Mylapore,
Chennai - 600 009.

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NR (24.06.2020) 4P 7C

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